

San Joaquin River Settlement Agreement



FRIANT
WATER USERS AUTHORITY

February 14, 2007

The Parties Involved

- United States Department of the Interior – Representing the US Bureau of Reclamation and the US Fish and Wildlife Service
- Friant Water Users Authority – Representing the Friant Division Long Term Water Contractors (22 of the 28)
- The Natural Resources Defense Council (14 Environmental Organizations)

NRDC v. Rodgers History

- Filed in December 1988
- Challenged renewal of Friant Contracts
- Complaint amended in mid 90s to challenge compliance with Fish & Game Code §5937
- August 2004 Court ruled Bureau was liable
- Scheduled for remedies trial February of 2006
- Settlement discussions began September 2005

Major Elements of the Settlement

- Restoration Goal
- Water Management Goal
- Reopener
- Funding
- Legislation
- State Participation
- Third Parties

CONFIDENTIAL SETTLEMENT DOCUMENT — DRAFT OF June 8, 2006

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25 **Confidential Settlement Document**
26 **Mark of 06-8-06 Draft**
27
28 UNITED STATES DISTRICT COURT
29 EASTERN DISTRICT OF CALIFORNIA
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31
32 NATURAL RESOURCES DEFENSE) CIV NO. S-88-1658-
33 COUNCIL, *et al.*,) LKK/GGH
34
35) **STIPULATION OF**
36) **SETTLEMENT**
37 Plaintiffs,)
38
39 v.)
40
41 KIRK RODGERS, as Regional Director)
42 of the UNITED STATES BUREAU)
43 OF RECLAMATION, *et al.*,)
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45 Defendants.)
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STIPULATION OF SETTLEMENT

Restoration Goal

- Restore Spring Run and Fall Run Chinook Salmon
 - Preference to Spring Run (500 fish minimum)
- Restore flows to the confluence of the Merced River
 - Pursuant to Kondolf hydrographs plus up to an additional 10%
- Undertake channel improvements to enable flows

An aerial photograph of the Oroville Dam, a massive concrete structure spanning a wide river. The dam features a series of spillways. In the foreground, a winding road and a small stream flow through green, hilly terrain. The background shows a large body of water (Lake Mead) and distant mountains under a clear blue sky.

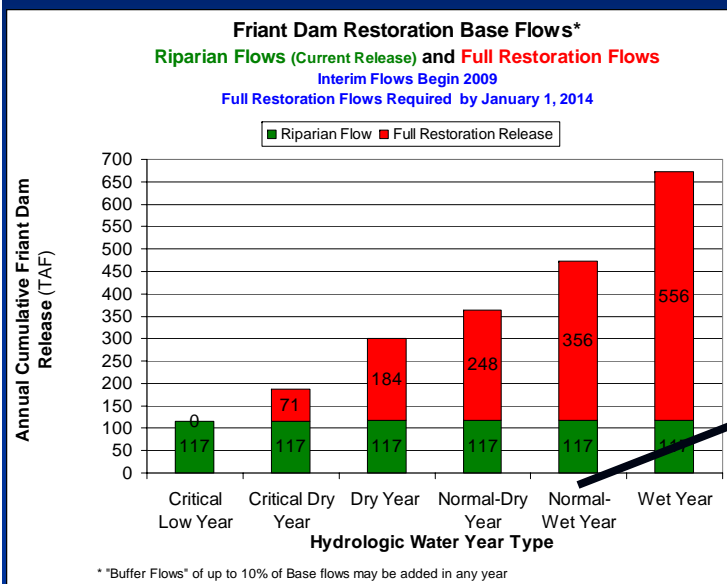


Restoration Flows

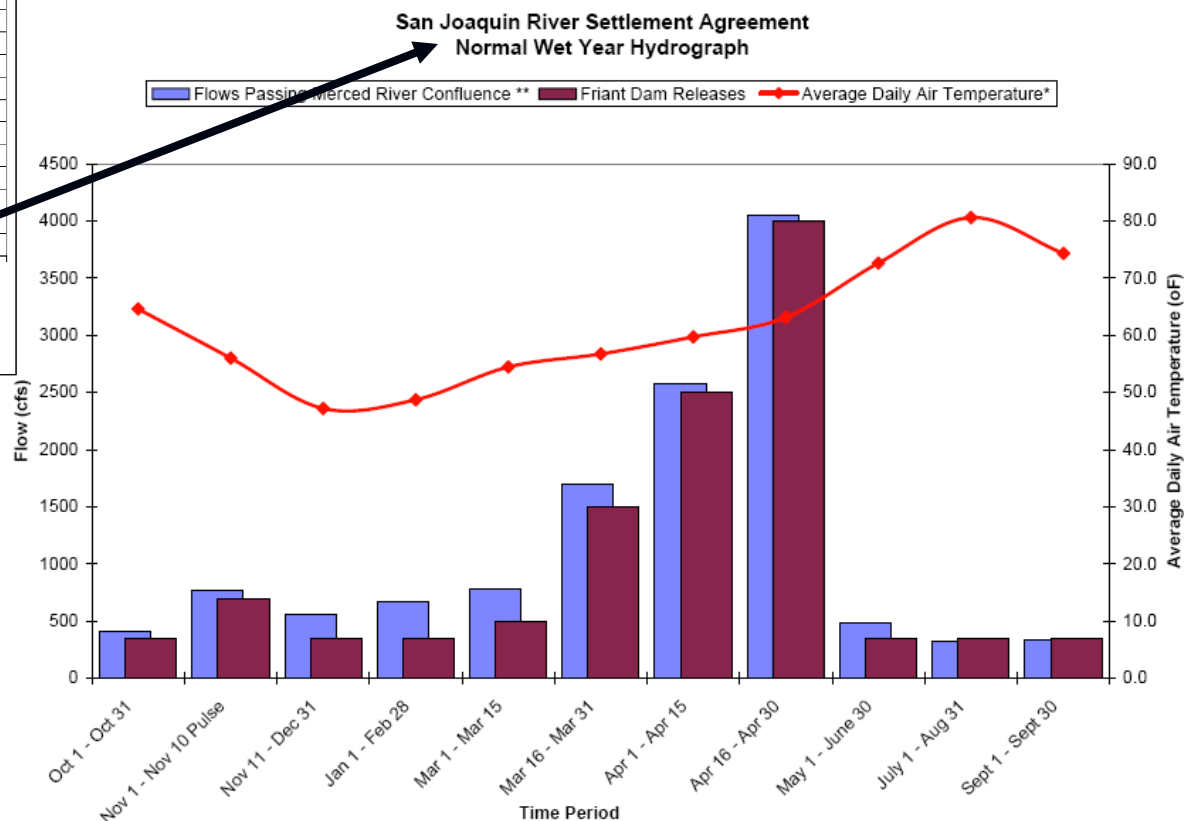
- Full Restoration Flows begin not later than January 1, 2014
- Interim Flows begin in fall of 2009 but are limited to experimental purposes, and by channel capacity and construction activities

Restoration Flows

Annual Flow Distribution



Maintenance Flows
 Approximately 500 cfs
 and
 Pulse Flows
 Approximately 4000 cfs



*50 Year Average Daily Air Temperature (Fresno, California), NOAA
 ** Includes San Joaquin River Gains and Loss Adjustments

Channel Improvements

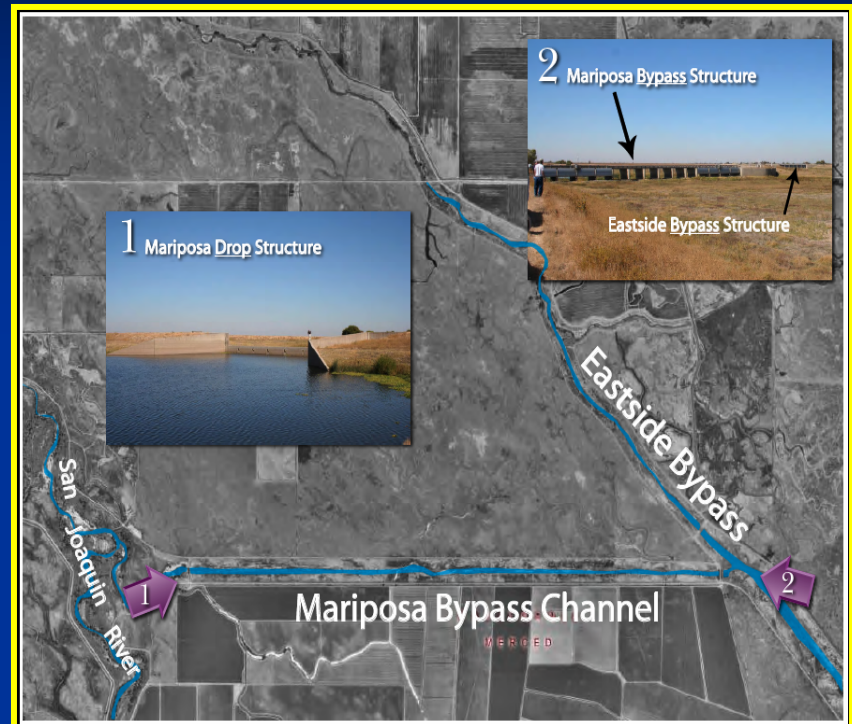
- Paragraph 11 identifies channel improvements necessary to enable flows
- Secretary is obligated to complete Phase 1 by December 31, 2013
- Secretary is obligated to complete Phase 2 by December 31, 2016

Reach 1 ----Gravel Pits

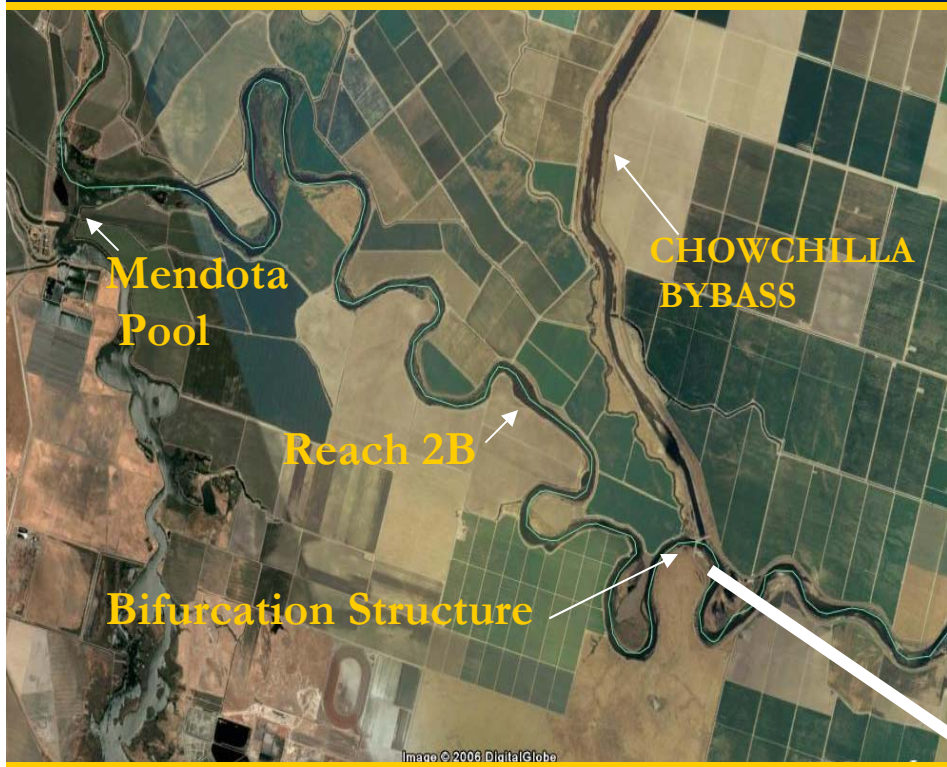
SAN JOAQUIN RIVER



SJR & Eastside Bypass Bifurcation Structures



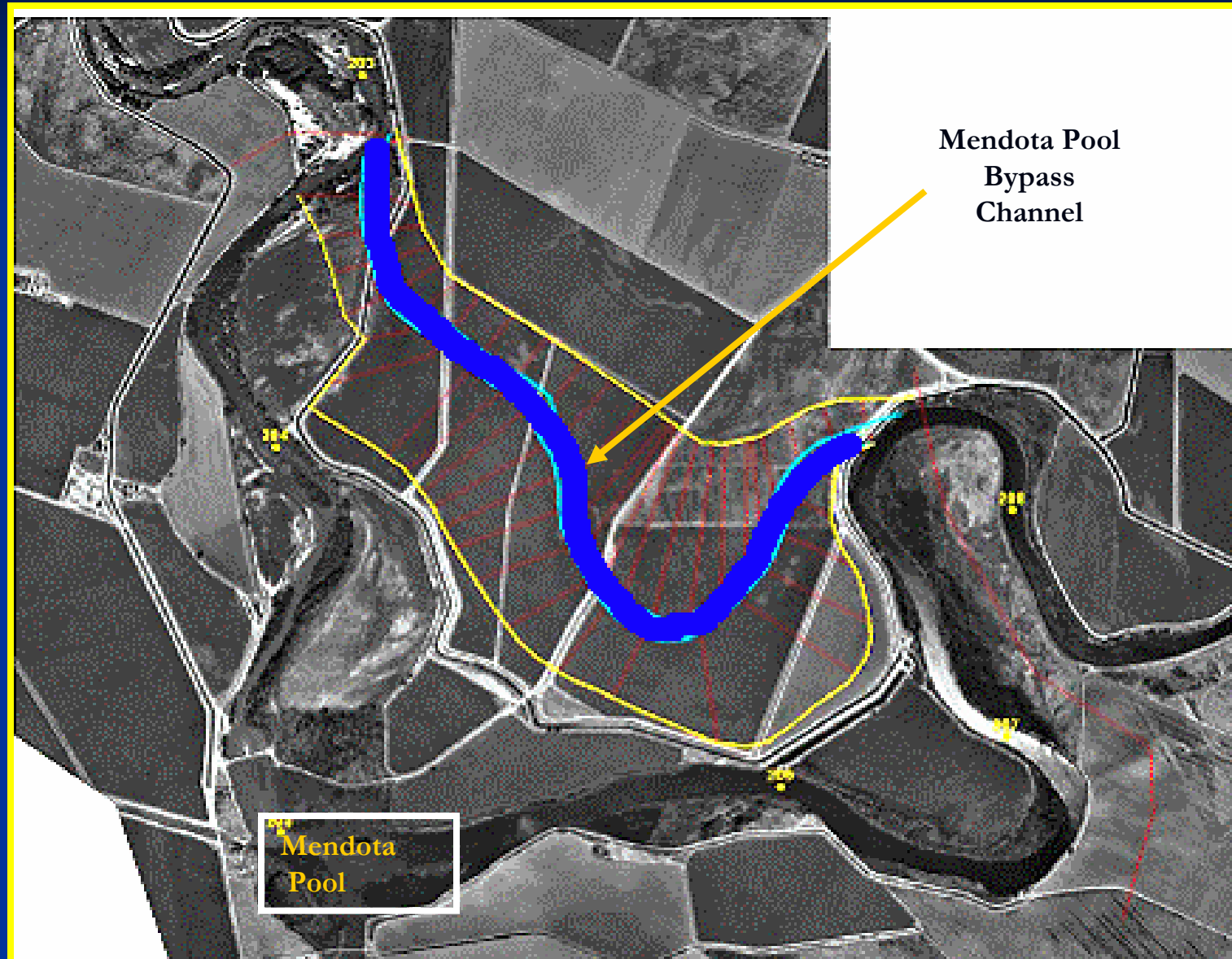
Reach 2B Levees



Mendota Pool



Phase 1-Mendota Pool Bypass Channel



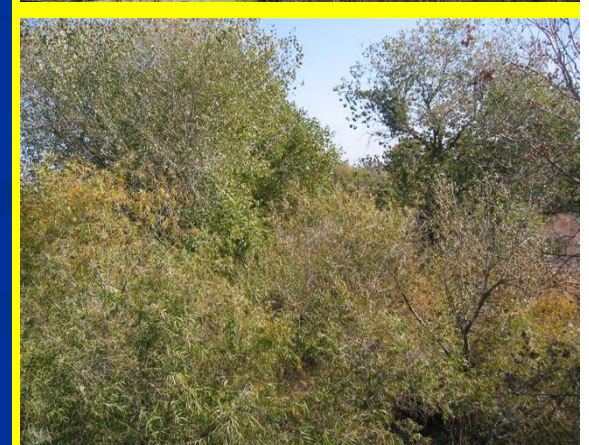
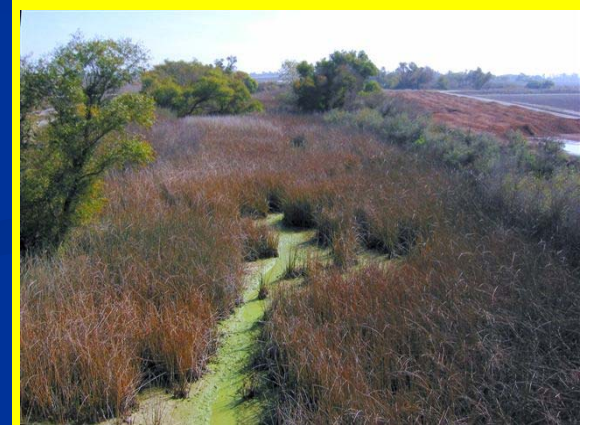
Arroyo Canal & Sack Dam



SJR Headgates & Sand Slough Structure



Reach 4B



East Side and Mariposa Bypass Channels

East Side Bypass



Restoration Cost Estimates

How much will the river restoration cost?

The parties' cost estimates to complete these actions and projects are preliminary and range from a low end estimate of **\$250 million to as much as \$800 million**, with the largest variable being the specific type and extent of levee work that may be required in connection with some of the projects.



Water Management

- Equal Goal of the Settlement
- Paragraph 16 requires the Secretary to
 - Develop and implement a plan for recirculation, recapture, reuse, exchange or transfer to mitigate impacts
 - Implement a Recovered Water Account program to reduce impacts
 - Make water available prior to Restoration Flows at reduced prices

Water Supply Impacts

There is no question that Friant Division water service contractors and their agricultural and municipal customers will have to deal with water supply impacts resulting from the settlement. Friant water users will be making a major water supply contribution to the Restoration Goal and Restoration Flows. For instance, an analysis of overall Friant water deliveries shows:

Water Supply Annual Contract Amounts, Class 1---Firm Supply is **800,000 acre-feet** and Class 2 supplemental Supply 1.4 million acre-feet

Under current average conditions, 1,281,000 acre-feet of Central Valley Project is used annually.

Under the Settlement, Friant's total average annual deliveries would be reduced by 242,000 acre-feet **(19%),** to 1,039,000 acre-feet.

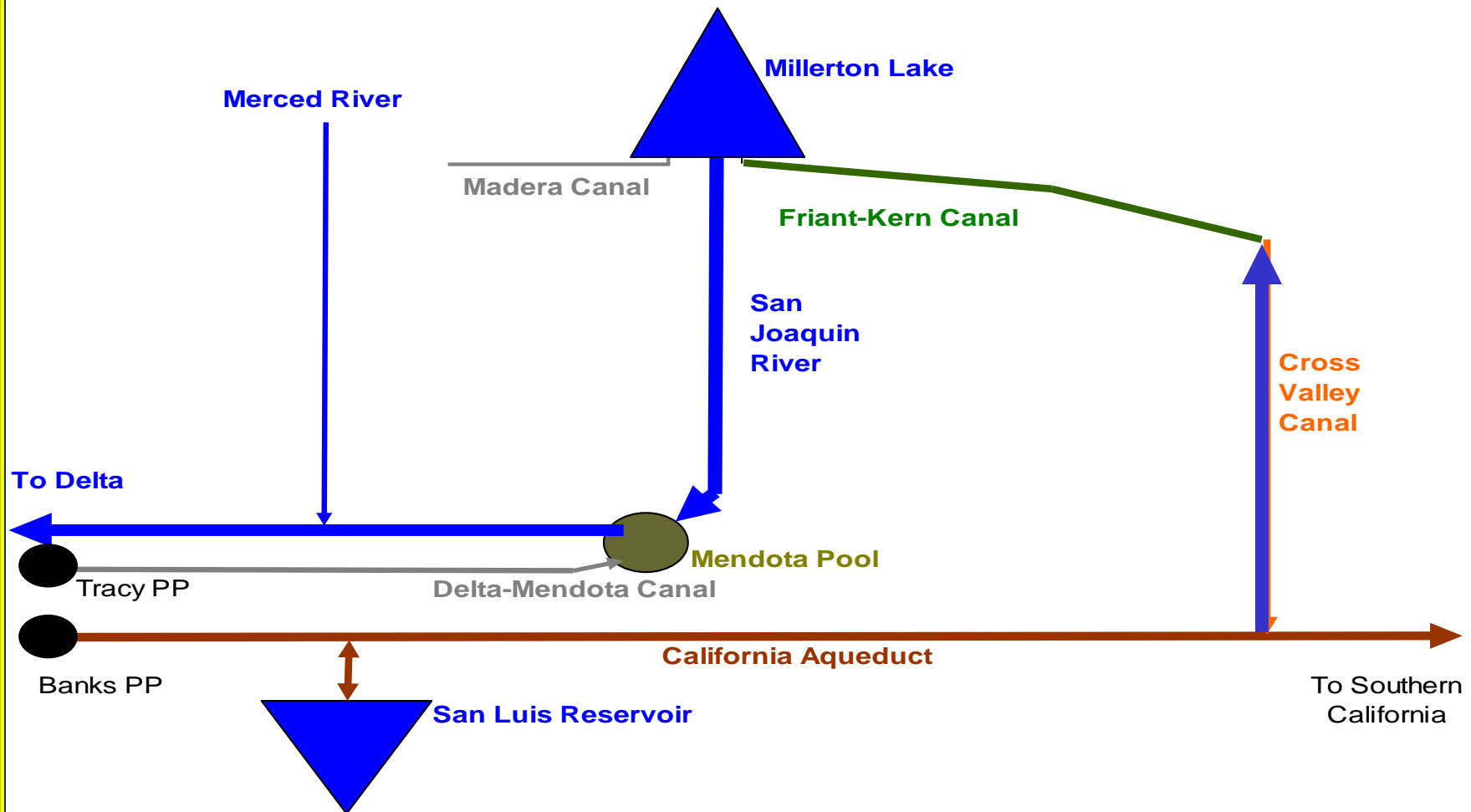
Under average dry year conditions, Friant currently delivers 629,000 acre-feet of water.

Under the Settlement, Friant's average annual dry year deliveries would be reduced by 145,000 acre-feet **(23%),** to **484,000 acre-feet.**

Water Management

Example of Re-circulation Project

Recirculation of San Joaquin River Water Back to Exchange Contractors or Friant Service Area via Delta



Water Management

A Recovered Water Account program to make water available to all Friant Division long-term contractors that provide water for Interim Flows or Restoration Flows for the purpose of reducing or avoiding impacts of such flows on contractors. Water deliveries under this provision are expected to be used primarily to support feasible groundwater programs.

Although complex and technical, these provisions will permit each long-term Friant contractor's Recovered Water Account to accrue one acre-foot of water for each acre-foot of reduction in water deliveries.

If “buffer flows” are required, Friant contractors will be credited in their account with 1.25 acre-feet of water for each one acre-foot reduction in water deliveries.

Water will be made available to contractors **only in wet years** when it is not needed for Restoration Flows or water contractor obligations, at a reduced cost of **\$10 per acre-foot**. Those funds are to be deposited in a Restoration Fund that is to be established under federal legislation authorizing settlement implementation.

Reopener

- Flow schedule cannot change before January 1, 2026
- Can only change by motion to the Court with referral to SWRCB to make a recommendation to the Court
- Requires findings regarding
 - Success of restoration effort
 - Success of water management programs

Funding

■ Friant water users

- through existing CVPIA Surcharge (\$8MM/year average)
- Portion of CVPIA Restoration Fund Charge (up to \$2MM/year)
- Capital component of water rates redirected (\$10MM/year average)

■ Federal authorization and future appropriations

(\$250MM additional funding authorized)

■ State participation

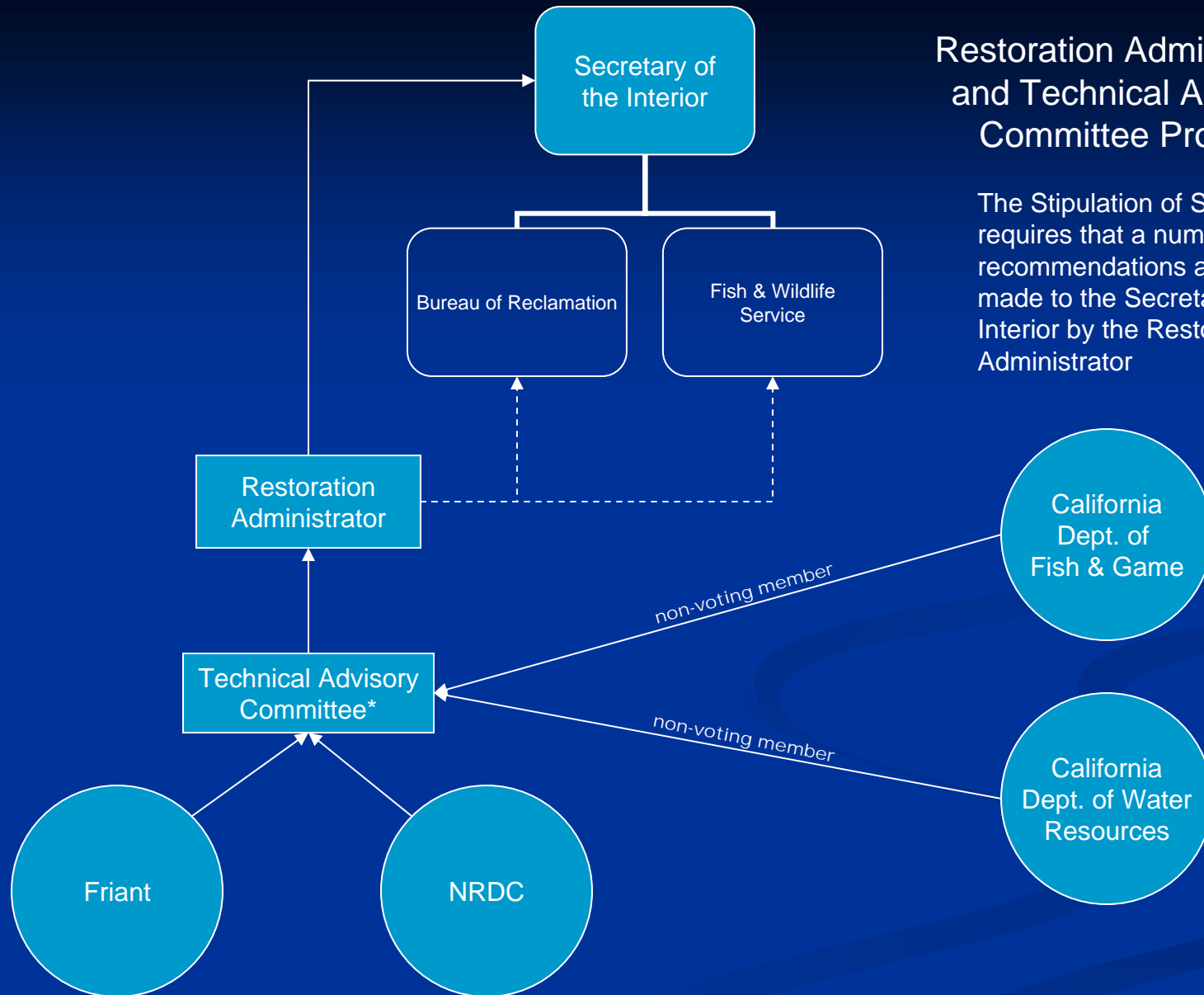
- Infrastructure Bond and Caves Initiative (Prop. 84), bonds and future appropriations
(Prop 84-\$100MM for SJR; Potential funding from 1E and other provisions of Prop 84 as well)

Implementing Legislation

- Certain of the Secretary's actions require Congressional authority
- Legislation was introduced to implement the Settlement by Senator Feinstein on January 4, 2007

Restoration Administrator and Technical Advisory Committee Process

The Stipulation of Settlement requires that a number of recommendations are to be made to the Secretary of the Interior by the Restoration Administrator



*The TAC is made up of six voting members (two Friant members, two NRDC members, and two members appointed jointly by Friant and NRDC)

State Participation

- DWR and DFG have expressed a strong desire to participate in the implementation of the Settlement
 - An MOU defining the State's role has been executed that defines the coordination between Federal and State agencies

Participation by Others

- Third Party
- NEPA /CEQA Public Input

Third Party Issues

- Downstream fishery issues
- ESA protections
- Downstream facility and landowner concerns
- Cost and water impact concerns

H.R. 24: San Joaquin River Restoration Settlement Act

SEC. 10. CALIFORNIA CENTRAL VALLEY SPRING RUN CHINOOK SALMON:

(c) Final Rule-

(1) DEFINITION OF THIRD PARTY- For the purpose of this subsection, the term `third party' means persons or entities diverting or receiving water pursuant to applicable State and Federal law and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) ISSUANCE- The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) REQUIRED COMPONENTS- The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimis: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

H.R. 24: San Joaquin River Restoration Settlement Act

SEC. 9. APPROPRIATIONS; SETTLEMENT FUND:

(g) Reach 4B-

(1) STUDY-

(A) IN GENERAL- In accordance with the Settlement and the Memorandum of Understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies—

(i) the costs of undertaking any work required under paragraph 11(a)(3) of the Settlement to increase the capacity of Reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with re-initiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

Timing

Immediately

Planning, design work, and environmental reviews

2009

Interim flows begin and increased gradually over several years

Dec. 31, 2012

Salmon begin being re-introduced

2012 -2026

The settlement continues in effect

2026

U.S. District Court retains jurisdiction to resolve disputes and enforce settlement

After 2026

Court, in conjunction with California State Water Resources Control Board, would consider any requests by parties for changes to restoration program

Thank You

Any Questions?